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TO: Examiner HO, Chuong T. **FAX NO.:** 571-273-8300
USPTO GPAU 2616

FROM: Jeffrey G. Toler
Reg. No.: 38,342

RE U.S. App. No.: 10/606,160, filed June 25, 2003

Applicant(s): Albert Chungbor Wan, et al.

Atty Dkt No.: 1033-T00517

Title: RING OVERLAY NETWORK DEDICATED TO CARRY
BROADCAST TRAFFIC TO DSLAMS

NO. OF PAGES (including Cover Sheet): 10

MESSAGE:

Attached please find:

- ☒ Transmittal Form (1 pg)
- ☒ Pre-Appeal Brief Request for Review (1 pg)
- ☒ Notice of Appeal (in duplicate) (2 pgs)
- ☒ Remarks in Support of the Pre-Appeal Brief Request for Review (5 pgs)

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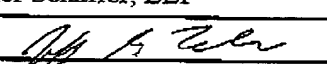
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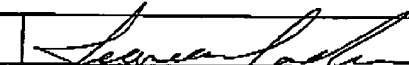
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/606,160	
	Filing Date	June 25, 2003	
	First Named Inventor	Albert Chungbor Wan, et al.	
	Art Unit	2616	
	Examiner Name	HO, Chuong T.	
Total Number of Pages in This Submission	10	Attorney Docket Number	1033-T00517

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<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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Firm Name	Toler Schaffer, LLP		
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Printed name	Jeffrey G. Toler		
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1033-T000517	
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Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>38,342</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		Signature <u>Jeffrey G. Toler</u> Typed or printed name Telephone number <u>512-327-5515</u> Date <u>11-4-2006</u>	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below".			
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants(s): Albert Chungbor Wan, et al.

Title: RING OVERLAY NETWORK DEDICATED TO CARRY BROADCAST TRAFFIC TO DSLAMS

App. No.: 10/606,160

Filed: June 25, 2003

Examiner: Ho, Chuong T.

Group Art Unit: 2616

Customer No.: 60533

Confirmation No.: 3573

Atty. Dkt. No.: 1033-T00517

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REMARKS IN SUPPORT OF
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Dear Sir:

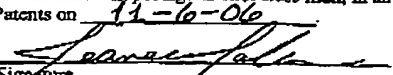
This paper is filed in response to the Final Office Action mailed September 1, 2006 (hereinafter "the Final Office Action"), along with a Notice of Appeal and Pre-Appeal Brief Request for Review. Applicants respectfully request review of the following issues:

Claims 1, 6, 9, 10, 14, 19, 24, 27, 28, and 32 Are Allowable

The Office has rejected claims 1, 6, 9, 10, 14, 19, 24, 27, 28, and 32, at paragraphs 4-13 of the Final Office Action, under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0117503 ("Nguyen"), in view of U.S. Patent Application Publication No. 2004/0125818 ("Richardson"). Applicants submit that the combination of Nguyen and Richardson does not disclose or suggest all of the elements of claims 1, 6, 9, 10, 14, 19, 24, 27, 28, and 32.

Neither Nguyen, nor Richardson, disclose or suggest a broadcast overlay network having a ring topology to carry broadcast traffic from a head end network, as recited in claims 1 and 19. In contrast to claims 1 and 19, Nguyen discloses a video head end that provides statically configured channels to a DSLAM via an ATM network. (*See* Nguyen, Fig. 1, para [0020]). Nguyen does not teach or suggest that the ATM network has a ring topology.

Additionally, neither Nguyen, nor Richardson disclose or suggest that the DSLAM determines an availability of a particular video channel based on a group address provided by the request for that

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particular video channel, as recited in claims 1 and 19. The Final Office Action asserts that page 2, [0020] and page 1, [0007] of Nguyen discloses this element. (See Final Office Action, p. 2). In contrast to claims 1 and 19, Nguyen discloses basing the availability of a particular channel on whether or not there is enough bandwidth available to complete a request to join a multicast group. Nguyen does not disclose determining the availability of a particular channel based on a group address provided by the request, as recited in claims 1 and 19. Hence, claims 1 and 19 are allowable.

Claims 6, 9, 10, and 14 depend from claim 1, which Applicants have shown to be allowable. Hence, claims 6, 9, 10, and 14 are allowable at least by virtue of their dependency from claim 1. In addition, claims 24, 27, 28, and 32 depend from claim 19, which Applicants have shown to be allowable. Thus, claims 24, 27, 28, and 32 are allowable at least by virtue of their dependency from claim 19.

Claims 2-4 and 20-22 Are Allowable

The Office has rejected claims 2-4 and 20-22, at paragraphs 14-19 of the Final Office Action, under 35 U.S.C. 103(a) over Nguyen, in view of Richardson, and further in view of U.S. Patent No. 6,892,233 ("Christian"). Applicants respectfully traverse the rejection. Claims 2-4 and 20-22 depend from claims 1 and 19, which Applicants have shown to be allowable. Christian does not disclose or suggest the elements of claims 1 and 19, which are not disclosed or suggested by Nguyen and Richardson. Thus, claims 2-4 and 20-22 are allowable, at least by virtue of their dependency from claims 1 and 19.

Claims 5 and 23 Are Allowable

The Office has rejected claims 5 and 23, at paragraphs 20-22 of the Final Office Action, under 35 U.S.C. 103(a) over Nguyen, in view of Richardson, in view of Christian, and further in view of U.S. Patent No. 6,718,553 ("Kenworthy"). Applicants respectfully traverse the rejection. Claims 5 and 23 depend from claims 1 and 19, which Applicants have shown to be allowable. Christian does not disclose or suggest the elements of claims 1 and 19, which are not disclosed or suggested by Nguyen and Richardson. In addition, Kenworthy does not disclose or suggest a DSLAM determining the availability of a particular video channel based on a group address provided in the channel request as recited in claims 1 and 19. As mentioned above, Nguyen and Richardson do not disclose or suggest this element. Thus, claims 5 and 23 are allowable, at least by virtue of their dependency from claims 1 and 19.

Claims 11, 12, 15, 16, 29, 30, 33, and 34 Are Allowable

The Office has rejected claims 11, 12, 15, 16, 29, 30, 33, and 34, at paragraphs 23-30 of the Final Office Action, under 35 U.S.C. 103(a) over Nguyen, in view of Richardson, and further in view of Kenworthy. Applicants respectfully traverse the rejection. Claims 11, 12, 15, 16, 29, 30, 33, and 34 depend from claims 1 and 19, which Applicants have shown to be allowable. Kenworthy does not disclose or suggest a DSLAM determining the availability of a particular video channel based on a group address provided in the channel request, as recited in claims 1 and 19. Nguyen and Richardson do not

disclose or suggest this element. Thus, claims 11, 12, 15, 16, 29, 30, 33, and 34 are allowable, at least by virtue of their dependency from claims 1 and 19.

Claims 13 and 31 Are Allowable

The Office has rejected claims 13 and 31, at paragraphs 31-33 of the Final Office Action, under 35 U.S.C. 103(a) over Nguyen, in view of Richardson, in view of Kenworthy, and further in view of U.S. Patent No. 6,118,780 ("Dunn"). Applicants respectfully traverse the rejection. Claims 13 and 31 depend from claims 1 and 19, which Applicants have shown to be allowable. Kenworthy does not disclose or suggest a DSLAM determining the availability of a particular video channel based on a group address provided in the channel request, as recited in claims 1 and 19. Nguyen and Richardson also do not disclose or suggest this element. Dunn does not disclose or suggest the elements of claims 1 and 19 that are not disclosed in Nguyen Richardson, and Kenworthy. Thus, claims 13 and 31 are allowable, at least by virtue of their dependency from claims 1 and 19.

Claims 8, 26, 37-41, and 44-46 Are Allowable

The Office has rejected claims 8, 26, 37-41, and 44-46, at paragraphs 34-41 of the Final Office Action, under 35 U.S.C. 103(a) as being unpatentable over Nguyen, in view of Richardson, and further in view of U.S. Patent Application Publication No. 2004/0088735 ("Kristofek"). Applicants submit that the combination of Nguyen, Richardson, and Kristofek does not disclose or suggest all of the elements of claims 8 and 26.

As mentioned previously, neither Nguyen nor Richardson disclose or suggest a broadcast overlay network having a ring topology to carry broadcast traffic from a head-end network as recited in claims 8 and 26. The Final Office Action asserts that page 1, [0006] and [0010] of Kristofek discloses a broadcast overlay network having a ring topology. (See Final Office Action, p. 7). In contrast to claims 8 and 26, page 1, [0006] and [0010] of Kristofek discloses using IGMP for broadcast requests and using a DSLAM in order to provide VDSL services. Kristofek does not disclose or suggest a broadcast overlay network having a ring topology.

The Final Office Action also asserts that the combination of Nguyen and Richardson could be modified in light of page 4, [0055] of Kristofek to show a DSLAM determining the availability of a requested video channel based on a class-D Internet Protocol address provided in the request as recited in claims 8 and 26. (See Final Office Action, p. 7 and 28). In contrast to claims 8 and 26, page 4, [0055] - [0058] of Kristofek discloses including a class-D address of a particular channel in an IGMP report sent from a set top box in response to a user request for access to a particular channel. Kristofek does not disclose or suggest that a DSLAM determines the availability of a requested video channel based on a class-D IP address. Hence, claims 8 and 26 are allowable.

Claims 37-41 depend from claim 8, which Applicants have shown to be allowable. Hence, claims 37-41 are allowable at least by virtue of their dependency from claim 8. In addition, claims 44-46 depend from claim 26, which Applicants have shown to be allowable. Hence, claims 44-46 are allowable at least by virtue of their dependency from claim 26.

Claims 35, 36, 42, and 43 Are Allowable

The Office has rejected claims 35, 36, 42, and 43, at paragraphs 42-46 of the Final Office Action, under 35 U.S.C. 103(a) over Nguyen, in view of Richardson, in view of Kristofek, and further in view of Christian. Applicants respectfully traverse the rejection. Claims 35, 36, 42, and 43 depend from claims 8 and 26, which Applicants have shown to be allowable. Neither Kristofek nor Christian disclose or suggest the elements of claims 8 and 26, which are not disclosed or suggested by Nguyen and Richardson. Thus, claims 35, 36, 42, and 43 are allowable, at least by virtue of their dependency from claims 8 and 26.

Claims 17 and 18 Are Allowable

The Office has rejected claims 17 and 18, at paragraphs 47-49 of the Final Office Action, under 35 U.S.C. 103(a) as being unpatentable over Kenworthy, in view of Christian, in view of Nguyen, and further in view of Richardson. Applicants submit that the combination of these references does not disclose or suggest all of the elements recited in independent claim 17.

The Final Office Action asserts that Kenworthy discloses a broadcast overlay network including a number of SONET rings and a dedicated data network separate from the broadcast overlay network, as recited in claim 17. (*See* Final Office, p. 37-38). However, the characterization of Kenworthy in the Final Office Action to show the broadcast overlay network cannot disclose or suggest this element because the Final Office Action cites two different networks of Kenworthy to show the broadcast overlay network. In particular, the Final Office Action first cites reference 102 in Figure 1 of Kenworthy as the head-end network and points to references 107 and 113 in Figure 1 of Kenworthy as the broadcast overlay network comprising a plurality of SONET rings. (*See* Final Office Action, p. 37, line 22 – p. 38, line 3). However, the Final Office Action later cites the interconnected long haul fiber optical network (reference 110 in Figure 1 of Kenworthy) as the dedicated data network and the Final Office Action indicates that reference 106 in Figure 1 of Kenworthy shows the broadcast overlay network. (*See* Final Office Action, p. 38, lines 13-14). Thus, the characterization of Kenworthy in the Final Office Action cannot show the broadcast overlay network recited in claim 17 because the broadcast overlay network of claim 17 is not two different networks.

In addition, the Final Office Action points to the interconnected long haul fiber optic network (reference 110) of Kenworthy to show the dedicated data network recited in claim 17, and the Final Office Action asserts that one of the fiber optic networks (reference 107) of Kenworthy shows the broadcast overlay network recited in claim 17. (*See* Final Office Action, p. 37-38). However, this

characterization of Kenworthy cannot show the separate broadcast overlay and dedicated data networks recited in claim 17 because the fiber optic networks 107 of Kenworthy are included in the long haul network 110 of Kenworthy. (See Kenworthy Figure 1 and col. 6, line 65 – col. 7, line 1).

In addition, the Final Office Action asserts that Figures 1 and 2 and page 2, [0020] and [0021] of Nguyen disclose a DSLAM for receiving a unicast request from a customer premise, delivering the unicast request to the dedicated data network, and directing unicast traffic from the head-end network to the customer premise as recited in claim 17. (See Final Office Action, p. 40). In contrast to claim 17, page 2, [0020] and [0021] of Nguyen discloses a set top box sending a message to a DSLAM to join or leave a multicast group for a particular video channel as opposed to the unicast request recited in claim 17.

Further, as stated above, Nguyen, Richardson, Christian, and Kenworthy do not disclose or suggest a DSLAM determining the availability of a particular video channel based on at least one of a group address and a class-D Internet Protocol address as recited in claim 17.


Accordingly, the asserted combination of Nguyen, Richardson, Christian, and Kenworthy fails to disclose or suggest each element recited in claim 17. Hence, claim 17 is allowable. Claim 18 depends from claim 17, which Applicants have shown to be allowable. Thus, claim 18 is allowable at least by virtue of its dependency from claim 17.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that the pending claims are allowable. Applicants therefore request withdrawal of all pending rejections.

Respectfully submitted,

11-4-2006
Date


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